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10/070,499	06/17/2002	Michael Humphries		7023

7590

08/29/2003

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EXAMINER

COURSON, TANIA C

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/070,499

Applicant(s)

HUMPHRIES, MICHAEL

Examiner

Tania C. Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,10-12 and 14-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10-12 and 14-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. The election requirement of the last Office action is withdrawn.

### ***Drawings***

2. The drawings are objected to because of the following:
  - a) Change "Fig. 3" to "Fig. 3A" to properly reflect what is described in the specification (page 3, line 7).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillette (US 46,348) in view of Knechtel (US 1,746,537).

Gillette discloses a ruling instrument including the following:

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- a) two component rules (Fig. 1, bars A & A') each providing one of two opposed parallel straight edges (Fig. 1), and a linkage (Fig. 1) allowing relative movement of the rules in a direction orthogonal to the straight edges but prohibiting relative movement in a direction parallel to the straight edges (Fig. 1);
- b) the linkage comprises an intermediate member (Fig. 1, bar e) connected to each component rule by a respective set of three links (Fig. 1), two links in each set being pivotally connected to both the intermediate member and the component rule by pivots situated on corners of a variable parallelogram (Fig. 1, hinges a, a', b & b'), the other link in each set being pivotally connected to the component rule (Fig. 1, hinges a & a') and both pivotally and slidably connected to the intermediate member for sliding movement together, parallel to the straight edges (Fig. 1, carriage B).

Gillette does not disclose both component rules having through holes suitable to receive the point of a pencil so as to make a line of latitude or longitude on a chart, in use

Knechtel teaches a plotting instrument that consists of both component rules having through holes (Fig. 1, pencil holes 5e) suitable to receive the point of a pencil so as to make a line of latitude or longitude on a chart, in use (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the ruling instrument of Gillette, so as to include through holes as taught by Knechtel, so as to provide a quick and accurate means of marking the distances during use of the instrument.

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5. Claims 1, 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay (US 671,281) in view of Knechtel.

Kay discloses a ruling instrument including the following:

- a) two component rules (Fig. 1, main members A & B) each providing one of two opposed parallel straight edges (Fig. 1), and a linkage (Fig. 1, arms C & D) allowing relative movement of the rules in a direction orthogonal to the straight edges but prohibiting relative movement in a direction parallel to the straight edges (Fig. 1);
- b) the linkage comprises two links each pivotally connected to a respective component rule, each pivotally (Fig. 1, pivots c & d) and slidably (Fig. 1, guideways A2 & B2) connected to the other component rule for sliding movement parallel to its straight edge and pivotally connected together between the component rules (Fig. 1).

Kay does not disclose both component rules having through holes suitable to receive the point of a pencil so as to make a line of latitude or longitude on a chart, in use

Knechtel teaches a plotting instrument that consists of both component rules having through holes (Fig. 1, pencil holes 5e) suitable to receive the point of a pencil so as to make a line of latitude or longitude on a chart, in use (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the ruling instrument of Kay, so as to include through holes as taught by Knechtel, so as to provide a quick and accurate means of marking the distances during use of the instrument.

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6. Claims 10-12, 14 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay and Knechtel, as applied to claims 1, 2 and 16 as stated above, and further in view of Lin (US 5,595,295) and Anderson (US 1,213,813).

Kay and Knechtel disclose a ruling instrument as stated above in paragraph 5. They further disclose each component rule is provided with a handle (Fig. 1, posts a & b). They do not disclose an instrument contained by a package, the package being so formed that at least part of the instrument is visible therethrough, and so that the instrument may be opened and closed, the package further having an opening through with part of the instrument may be accessed to open and close the instrument while retaining the instrument in the package, the package being formed so as to restrain movement of one handle of the instrument, the other handle projecting through the opening, the package is at least partly transparent, and the instrument is provided on the underside with a pair of spaced bosses, the bosses being of relatively low friction material, and between the bosses with at least one area of relatively high friction material, the bosses projecting further from the component rules than the high friction areas.

With respect to an instrument contained by a package, the package being so formed that at least part of the parallel rule is visible therethrough, and so that the instrument may be opened and closed, the package further having an opening through with part of the instrument may be accessed to open and close the instrument while retaining the instrument in the package, the package being formed so as to restrain movement of one handle of the instrument, the other handle projecting through the opening, the package is at least partly transparent, Lin teaches a device for keeping and displaying an instrument that contains an instrument contained by a

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package (Fig. 4, transparent pieces 10-12), the package being so formed that at least part of the instrument is visible therethrough (Fig. 4), and so that the instrument may be opened and closed (Fig. 4), the package further having an opening through which part of the instrument may be accessed to open and close the instrument while retaining the instrument in the package (Fig. 4, through hole 17), the package being formed so as to restrain movement of one handle of the instrument (Fig. 4), the other handle projecting through the opening (Fig. 4), the package is at least partly transparent (Fig. 4, transparent pieces 10-12). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the ruling instrument of Kay and Knechtel so as to include a package for containing the instrument and having openings, as taught by Lin, in order to protect the instrument while being able to test it without having to remove it from its protection.

With respect to the instrument is provided on the underside with a pair of spaced bosses, the bosses being of relatively low friction material, and between the bosses with at least one area of relatively high friction material, the bosses projecting further from the component rules than the high friction areas, Anderson teaches a drafting instrument that contains an instrument provided on the underside with a pair of spaced bosses (Fig. 3, legs 12 & 13), the bosses being of relatively low friction material, and between the bosses with at least one area of relatively high friction material (Fig. 3, rubber 11), the bosses projecting further from the component rules than the high friction areas (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the ruling instrument of Kay

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and Knechtel, so as to include a bosses and high friction material, as taught by Anderson, in order to reduce the tendency of the instrument to slip during use of the instrument.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose ruling instruments, packages for containing instruments and friction material on ruling instruments;

Cox (US 6,126,008)

MacLean (US 2,332,100)

Rehnqvist (US 1,600,246)

Krivacs (US 1,410,196)

Pfeiffer (US 1,141,483)

Westbrook (US 1,059,797)

Page (694,185)

Calkins (458,966)

Campbell (GB 2160478)

Caplin (GB 278,502)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (703) 305-3031.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (703) 308-3875. The fax number for this Organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DIEGO F.F. GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 2859

TCC  
August 22, 2003

CHRISTOPHER W. FULTON  
PRIMARY EXAMINER